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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,080	07/24/2003	David C. Eby	29618/38939	9963
4743	7590	08/23/2005	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606			DOOLEY, JAMES C	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/626,080	EBY ET AL.
Examiner	Art Unit	
James C. Dooley	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on \_\_\_\_.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-33 is/are pending in the application.  
4a) Of the above claim(s) 25 is/are withdrawn from consideration.

5)  Claim(s) 5-21,24 and 31-33 is/are allowed.

6)  Claim(s) 1-4,22,23 and 26-30 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 1/07/2005 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/4/2005

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In a previous office action the examiner noted problems in claim 5 where there was confusion in distinguishing what applicant is referring to as "a respective first end." It is understood that the first use of the term "first end" is regarding the plate, and the second occurrence of "first end" is regarding the vane. Appropriate correction is required. In this office action the claim will be considered using the above mentioned understanding.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2,24 is rejected under 35 U.S.C. 102(b) as being anticipated by Sweeny (US Patent Number 2,230,366). Sweeny discloses a method comprising opening of a space between a plate (15) and a vane (18,19) attached to the plate, placing a file between plate and vane, and extending a band (16 or 36) over the vanes, the band being attached to the plate at one end. The design shows a plurality of vanes capable of storing multiple files.

3. Claims 26-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Biba (US Patent Number 5,180,191). Biba teaches a folder featuring:

- a. A plate (10) including first (22) and second (22) sections separated by a fold line (23)
- b. A plurality of vanes (32a,b)
- c. Second section folds over first securing a file (Fig. 1)
- d. A handle (42)

In the prior art it can be seen that folding is not necessary to secure the files, although the files are made more secure by folding.

4. Claim 22-23 is rejected under 35 U.S.C. 102(b) as being anticipated by Corbishley (US Patent Number 5,433,481). Corbishley teaches a folder featuring:

- e. A plate (14) including first (21) and second (upper edge of 12) end with a fold line (24)
- f. A plurality of vanes (30) attached at a respective first end (25)
- g. The vanes being disposed between the first end and the fold lines
- h. The second section (12) overlaps the first section (14) and the vanes (30) so as to securely hold files therein (Fig. 5)

The orientation of the plates is not similar to the drawing show by applicant, although it can be clearly seen in figure 1 that both vanes are between the first edge (21) and the fold line (24).

***Allowable Subject Matter***

Art Unit: 3634

5. Claims 3-4,28-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 5-21,24,31-33 are allowed.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James C. Dooley whose telephone number is 571-2721679. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Richard Chilcot  
Supervisory Patent Examiner  
Technology Center 2600